

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 1380 of 2005.

Reserved on: 08.05.2007.

Decided on: 29.05. 2007.

Power Grid Corporation of India.

Versus

... .. Petitioner.

Mohinder Singh.

... .. Respondent.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

*Whether approved for reporting?*¹ No.

For the petitioners: Mr. Bimal Gupta, Advocate.

For the Respondent: Mr. Sandeep Kaushik, Advocate.

Rajiv Sharma, Judge:

This petition has been filed against award dated 30.9.2005 passed by the learned District Judge, Mandi, H.P.

The brief facts necessary for adjudication of this petition are that the land of the petitioner has been utilized for laying down 400 KV Jhakri-Kol Dam-Nalagarh transmission line over the land of the respondent resulting in damage to 26 fruit bearing plants of apple comprising in Khasra No.1449/361, measuring 7-14-7

Whether reporters of local papers may be allowed to see the judgment? No.

bighas, situate in village Charkhedi (Kanda Kuffara), Sub Tehsil Nihri, Tehsil Sundernagar, District Mandi, H.P. The respondent was paid a sum of Rs.27,430/- by the petitioner-Corporation with respect to 26 apple plants and the same was returned by the respondent being low. The respondent then filed petition under Section 16(3) of the Indian Telegraphs Act, 1885 read with Section 51 of the Indian Electricity Act seeking compensation for the loss suffered by him before the learned District Judge, Mandi. The petitioner-Corporation had contested the claim before the learned District Judge by stating that a sum of Rs.27,430/- was adequate. The learned District Judge, Mandi had held in his award dated 30th September, 2005 that the respondent was entitled to rupees 4,68,000/- for the damage caused to the fruit trees.

Mr. Bimal Gupta has strenuously argued that the learned District Judge could not apply Harbans Singh Formula for determining the damage caused to the apple plants, but was to consider the guidelines prescribed by the Department of Horticulture, which are at page 69 of this paper book vide Annexure P-8. Mr. Sandeep Kaushik appearing on behalf of the respondent has supported the award passed by the learned District Judge.

I have heard the parties and also gone through the record.

The plea raised by Mr. Bimal Gupta that the evaluation criteria of fruit bearing trees as per Department of Horticulture was to be considered by the learned District Judge is untenable for the simple reason that no such plea was raised before the learned

District Judge. The learned District Judge on the basis of law laid down by this Court in **Khazana Ram's** case has correctly applied the Harbans Singh Formula for assessing the damage caused to the apple trees. The learned District Judge has also taken into consideration the price index and ultimately has held the respondent entitled to enhancement of eight times of the amount determined, i.e. 4,68,000/- (58,500 x 8). There is neither any jurisdictional error nor any procedural irregularity in the award dated 30th September, 2005.

Accordingly, this petition is dismissed with no order as to costs. The amount lying deposited in the Registry of this Court be released in favour of respondent No.1.

(Rajiv Sharma)
Judge

May 29, 2007
(sck).